

Chapter 91 Permitting Guidance

The anticipated process and fees estimated for the Commonwealth of Massachusetts Chapter 91 licensure process are described below. A License is necessary because lighthouse is located on bottom lands held in trust by the Commonwealth, and thus in the Commonwealth's regulatory jurisdiction.

At present, most lighthouses do not have a c.91 authorization because they are the property of the Federal government. What could trigger c.91 licensing would be if the lighthouse's aid-to-navigation use were to be changed to any other type of use (including, but not limited to residential, museum/cultural, historic landmark open to some form of limited public access, etc.). This would constitute a change of use from a federally-controlled structure for which the sole use had been as an aid to navigation, to a privately-owned structure w/ new uses. The statute and regulations (at 310 CMR 9.00) promulgated requires a license for any such change in use. If the lighthouse were to be purchased with no proposed change in use, no licensing would be required.

Process & Fees:

In the event that licensure is triggered, the high bidder/owner must submit to the Department of Environmental Protection's Waterways Regulation Program (WRP) a License application (see <http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html>). The application requirements can be viewed at 310 CMR 9.11(3). These WRP regulations (310 CMR 9.00) may be obtained through the Secretary of State's Office and online. License Plans developed in accordance with the application guidance must be submitted with the application. There is an application fee.

There is a 30-day public comment period associated with all applications. Upon the close of the comment period the WRP will commence its review using the performance standards pursuant to the relevant standards under 310 CMR 9.00

At the close of the review period, the WRP will issue a determination on the application. For planning purposes, the process, from application to License issuance, usually takes approximately 6-8 months. The License will have a 30-year term. Because the structure occupies state-owned lands, there will be an Occupation Fee associated with the License. The fee is based on an equation found at 310 CMR 9.16, Table 1, Occupation Fee. The fee for a 30-year license would be based on plan information sent with the License application.

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